
3. Disapprove the variance.

- (8) **Limitations on Variance Request** – Any matter considered by the Board of Adjustment shall not be reheard within twelve months after the date of the decision on the matter unless the zoning director determines that there has been a substantial change in the facts from those in the original application. A new application and filing fee shall be required each time a matter is considered by the Board of Adjustment.

Sec. 12-11. AMENDMENTS TO THE COMPREHENSIVE PLAN

Amendments to the Comprehensive Plan shall be in accordance with the procedures outlined in this section. Corrections, updates, or modifications of current costs, which are set out as a part of the Comprehensive Plan shall not be deemed as amendments.

(1) **Definitions.** As used in this section the following terms shall have the meanings attributed thereto unless the context clearly indicates a different meaning:

- (a) **Administrative Head of the LPA.** The administrative head of the LPA shall, as referred to in this document, mean the Director of the Planning and Zoning Division.
- (b) **Amendments.** Any change in the map or text of the Plan adopted in accordance with the procedures outlined in this manual and in accordance with procedures outlined in Sections 163.3184 and 163.3187, Florida Statutes. Corrections, updates or modifications of current costs which are set out as part of the Plan shall not be deemed to be amendments.
- (c) **Board.** As referenced herein the Board shall mean the Board of County Commissioners of Clay County.
- (d) **Capital Improvement.** The physical assets constructed or purchased to provide, improve, or replace a public facility and which are typically large scale and high in cost. The cost of a capital improvement is generally nonrecurring and may require multiyear financing. For the purpose of this section, physical assets that have been identified as existing or projected needs in the individual comprehensive plan elements shall be considered capital improvements (163.3164(7) F.S.).
- (e) **Citizen Advisory Committees (CAC).** Committees comprised of interested citizens which review and comment on comprehensive plan amendments and rezoning applications within their respective planning district. There are seven committees; one for each planning district.
- (f) **Clay County Comprehensive Plan or Plan.** The Comprehensive Plan entitled Clay County 2025 Comprehensive Plan developed to meet the requirements of the Growth Management Act of 1985, as amended, Chapter 163, Florida Statutes. The Plan was originally adopted by the Board of County Commissioners on January 23, 1992, by Ordinance No. 92-03.

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- (g) Community. An area which is clearly recognizable as having an existing, homogeneous and distinct character distinguishable from adjacent land outside its boundary.
- (h) Development of Regional Impact (DRI). A development which, because of its scope and size, impacts more than one County and which is required to meet State as well Local Government approvals prior to issuance of any development permits.
- (i) Downtown Revitalization. The physical and economic renewal of a central business district of a community as designated by local government, and includes both downtown development and redevelopment (163.3164(17), F.S.).
- (j) Florida Quality Development (FQD). A development which, because of its scope and size, impacts more than one County and which is required to meet State approval prior to issuance of any development permits. Criteria for approval is more stringent than a DRI review.
- (k) In Compliance. Consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, 163.3191, 163.3245, and 163.3248, F.S., with the appropriate strategic regional policy plan, with the principles for guiding development in designated areas of critical state concern, and with part III of ch. 369, F.S., where applicable (163.3184(1)(b), F.S.).
- (l) Intensity. An objective measurement of the extent to which land may be developed or used, including the consumption or use of the space above, on, or below ground; the measurement of the use of or demand on natural resources; and the measurement of the use of or demand on facilities and services (163.3164(22), F.S.).
- (m) Internal Trip Capture. Trips generated by a mixed-use project that travel from one on-site land use to another on-site land use without using the external road network (163.3164(23), F.S.).
- (n) Land. The earth, water, and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as land (163.3164(24), F.S.).
- (o) Level of Service. An indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility (163.3164(28), F.S.).
- (p) Local Planning Agency. The Local Planning Agency (LPA), otherwise referred to as Land Development Regulation Commission (163.3164(25) F.S.), shall, as referred to in this document, mean the Clay County Planning Commission. The role of the LPA in the process described in this document shall be as specified in 163.3174, F.S., which defines the term “Local Planning Agency;” and as otherwise specified in part II of Chapter 163, F.S. Generally, the role of the LPA in the plan amendment process shall include, but not be limited to the coordination and administration of the process on behalf of the governing body, to serve as the lead agency for evaluating and formulating a

recommendation on all proposed amendments, and to initiate certain amendments to the comprehensive plan as provided for by law.

- (q) Local Planning Agency (LPA) Staff. The LPA Staff shall, as referred to in this document, mean the Director of the Planning and Zoning Division and all staff of the division.
- (r) Northeast Florida Regional Council (NEFRC). The regional agency created pursuant to Chapter 186, F.S., responsible for planning in a seven county region of Northeast Florida.
- (s) Notice of Intent (NOI). The official notification from State Land Planning Agency determining if the amendments to the Comprehensive Plan are in compliance with the Local Government Comprehensive Planning Act.
- (t) Objective. A specific, measurable, intermediate end that is achievable and marks progress toward a goal.
- (u) Objections, Recommendations and Comments (ORC) Report. The official review report from State Land Planning Agency of amendments to the Comprehensive Plan. All objections must be addressed and meet with State Land Planning Agency's approval prior to the amendments being found "In Compliance."
- (v) Public Facilities. Major capital improvements, including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational facilities (163.3164(38) F.S.).
- (w) Reviewing Agencies. The state land planning agency; the appropriate regional planning council; the appropriate water management district; the Department of Environmental Protection; the Department of State; the Department of Transportation; in the case of plan amendments relating to public schools, the Department of Education; in the case of plans or plan amendments that affect a military installation, the commanding officer of the affected military installation; and in the case of county plans and plan amendments, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services.
- (x) Sector Plan. The process authorized by s. 163.3245, F.S., in which one or more local governments engage in long-term planning for a large area and address regional issues through adoption of detailed specific area plans within the planning area as a means of fostering innovative planning and development stratifies, furthering the purposes of s. 163.3164, F.S., and part I of Chapter 380, F.S., reducing overlapping data and analysis requirements, protecting regionally significant resources and facilities, and addressing extrajurisdictional impacts (163.3164(42), F.S.).
- (y) Strategic Regional Policy Plan (SRPP). Developed by each Regional Planning Council, this plan is a long range guide for physical, economic and social development of a comprehensive planning district which identifies regional goals and policies.

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- (z) Urban Service Area. Areas identified in the comprehensive plan where public facilities and services, including, but not limited to, central water and sewer capacity and roads, are already in place or are identified in the capital improvements element (163.3164(50), F.S.).

(2) The Plan Amendment Review Process.

- (a) Pre-application Conference. Pre-application conferences with the LPA staff are required for potential applicants to obtain information concerning the proper land use plan classifications and to avoid unnecessary petitioning for plan amendments.
- (b) The Plan Amendment Process.
1. Expedited State Review Process (standard review process): All amendments except as provided in paragraph (2)(b)2 and (2)(b)3. This process requires minimum one (1) LPA public hearing and two (2) public hearings (a transmittal hearing and an adoption hearing before the Board of County Commissioners).
 2. State Coordinated Review Process: Plan amendments that are in an area of critical state concern (380.05, F.S.); a rural land stewardship area (163.3248, F.S.); a sector plan (163.3245, F.S.); or a comprehensive plan based on an evaluation and appraisal (163.3191, F.S.). This process requires minimum one (1) LPA public hearing and two (2) public hearings (a transmittal hearing and an adoption hearing before the Board of County Commissioners).
 3. Small Scale Amendment Process: Plan amendments that qualify as small-scale development amendments. This process requires minimum one (1) LPA Public hearing and one (1) public hearing (an adoption hearing before Board of County Commissioners). A small scale amendment may be adopted under the following conditions:
 - a. The proposed amendment involves a use of 50 acres or fewer;
 - b. If the proposed amendment site is located within a rural area of opportunity as defined under Florida Statute 288.0656(2)(d) for the duration of such designation, the acreage limit is raised to a maximum of 100 acres; and
 - c. The proposed amendment does not involve a text change to the goals, objectives, and policies of the Plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity. However, text changes that relate directly to, and are adopted simultaneously with, the small scale future land use amendment shall be permissible.

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- (c) Application Submittal. Once a plan amendment proposal has been prepared, a completed application package including the applicable fees is required to be submitted. The applicant may also choose to concurrently submit an application for a re-zoning.
1. Plan Amendment Fees. The schedule of reasonable application and review fees to defray the costs associated with the processing of plan amendments is provided in Section 12-10(6). These fees cover staff time required for research, preparation, and/or other costs associated with processing of the plan amendment.
 2. Comprehensive Plan Amendment Form. An appropriate comprehensive plan amendment form shall be completed and be submitted with required attachments.
- (d) Sufficiency Review. One original paper copy of an application and one electronic copy of an application, both with all requisite attachments, are required at the time of submittal. An application will be deemed either “sufficient” or “insufficient” for processing within 3 business days after receipt. This is to ensure inclusion of all required information. If an application is determined to be insufficient, an applicant will be requested to provide missing information within 1 week from the receipt of county planning staff’s notification.
- (e) Withdrawal of Petition. The requesting party (or authorized agent) may withdraw a request for a plan amendment at any time by filing a written notice thereof to the Administrative Head of the LPA staff. If the withdrawal of a proposed amendment occurs at any time after the Board has submitted said amendment to the State Land Planning Agency for review, the Board shall provide notice of the withdrawal to the State Land Planning Agency.
- (f) LPA Staff Review. The LPA staff will study the proposed amendment area(s) for compliance and consistency with the Data and Analysis, and Goals, Objectives and Policies of the Plan, regulations implementing the Plan, and with professional planning principles and standards and will make recommendations to the LPA for approval, approval with amendment(s), or disapproval of the proposed amendment at the LPA public hearing required in Section 12-10(2)(h) below.
- (g) Citizen Advisory Committees (CAC) Meetings. The LPA staff may meet with the appropriate CAC as part of the review of the proposed amendment. The CAC meeting will be advertised and open to the public. Additional meetings may be scheduled, if necessary.
- (h) LPA Public Hearing. At the LPA’s public hearing conducted pursuant to s. 163.3174(4)(a), Florida Statutes, the LPA shall consider the public’s input concerning the proposed amendment(s) and take action to concur with, amend or reverse the LPA staff’s recommendation and state their reasons for concurrence with, amendment of, or reversal of staff’s recommendation by simple majority. At this public hearing, the LPA staff shall present its findings and recommendations on its study of the plan amendment requests to the LPA. The LPA shall publish notice of the date, time, place, purpose of the public hearing, and the place or places within the County where the proposed plan

amendment may be inspected by the public. The advertisement shall also advise that interested parties may appear at the meeting and be heard regarding the amendments to be considered for transmittal. The advertisement shall be published once in a newspaper meeting the requirements of Florida law regarding legal and official advertisements in the area not less than ten (10) days prior to the date of the hearing. The advertisement shall appear in a newspaper that is published at least weekly. To enhance public awareness and participation at the LPA public hearing, when plan amendments involving land use changes are to be considered, a sign or signs shall be posted on the property for which the proposed amendment is sought informing the public of the substance of the proposed action, indicating the date, time and place of the LPA public hearing and informing the public where additional information may be obtained. Said posting shall be accomplished at least twenty-one (21) calendar days prior to the LPA public hearing. The use of factual information by the requesting party at the LPA public hearing, which is beyond the scope of either that submitted to the LPA staff at time of application, or received and accepted by the LPA staff subsequent to submittal of the plan amendment request, shall constitute grounds for continuation of the public hearing until such time as the LPA staff can analyze such information. Any continuance for this reason may result in delay of the amendment process. Copies of all documents and correspondence relative to the LPA's processing of, or recommendations regarding, a plan amendment shall be maintained in the offices of the LPA staff and made available for public review.

- (i) Board Transmittal Hearing (Not applicable to Small Scale Amendments). The Board shall, at a regularly scheduled meeting following the LPA public hearing hold the first public hearing which shall be the transmittal hearing on the proposed plan amendment. The procedures for the transmittal hearing shall be the same as for the LPA public hearing [Section 12-10(5)(h)]. The first public hearing shall be held on a weekday at least seven (7) days after the day that the advertisement is published. The intention to hold and advertise a second public hearing at the adoption phase [Section 12-10(2)(1)] shall be announced at the first public hearing. The procedure for transmittal of a plan amendment shall require an affirmative vote of not less than a majority of the Board. Notice requirements for the first public hearing shall be as outlined in Section 12-10(3). The Board shall, within ten (10) days from the transmittal hearing, transmit the complete proposed plan amendment with appropriate supporting data and analysis to reviewing agencies and to any other unit of local government (agency), which has filed a written request with the Board, for written comment.
- (j) Agency Review. Within five (5) days of receipt of any comments including the Objections, Recommendations and Comments (ORC) Report from the State Land Planning Agency, the Chairman of the Board shall forward a copy to the Administrative Head of the LPA who shall provide the LPA with a copy of the report. Any comments or the ORC Report to the proposed plan amendment which are submitted by the reviewing agencies are public documents, a part of the permanent records in the matter, and admissible in any proceeding in which the Plan may be at issue.
- (k) Optional LPA/Board Workshop. Following the receipt of Reviewing Agency comments or the ORC Report, the Board may schedule a joint LPA/Board workshop concerning the proposed plan amendment(s). This meeting may be requested by LPA, Board, and/or

the head of LPA staff, and shall be held prior to the Board adoption hearing. The ORC Report issued by the State Land Planning Agency that relates to the requesting party's amendment shall be responded to by the LPA staff. Staff shall notify the requesting party of the objection within three (3) working days of receipt of the ORC Report. The requesting party shall indicate whether the amendment will be withdrawn within five (5) working days of receipt of the notice of objection. If the amendment is not withdrawn, the requesting party shall formulate a response for presentation at the joint LPA/Board workshop outlined in this Section. The requesting party shall submit the proposed response to the LPA staff for review and recommendation at the workshop at least five (5) working days prior to the scheduled workshop. In case that a joint LPA/Board Workshop is not requested, after the LPA staff notifies the requesting party of the objection within three (3) working days of receipt of the ORC Report, the requesting party shall have maximum thirty (30) days to formulate a response and submit it to the LPA staff for review.

- (1) Board Adoption Hearing. The Board shall hold its second public hearing, which shall be a hearing on whether to adopt, adopt with changes, or determine not to adopt one or more comprehensive plan amendments. The second public hearing shall be held on a weekday at least five (5) days after the day that the advertisement is published. If the second hearing is not held within 180 days after receipt of agency comments or the ORC Report, the amendments shall be deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected person that provided comments on the amendment. The 180-day limitation does not apply to amendments processed pursuant to 380.06, F.S. For Small Scale Amendments, the Board may advertise a public hearing to adopt the amendment immediately after the LPA Public Hearing.
- (3) Legal Advertisement and Notice for Public Hearings.
 - (a) Format of Legal Advertisement for Public Hearings (Board Transmittal and Adoption Hearings). Except as provided below, the advertisement shall state the date, time, place of the meeting, the title or titles of the proposed plan amendments, the subject of the meeting, and the place or places within the County where the proposed plan amendment may be inspected by the public. The advertisement shall also advise that interested parties may appear at the meeting and be heard regarding the transmittal or adoption of the plan amendment. If the proposed plan amendment changes the permitted, conditional, or prohibited uses within a future land use category or changes the actual future land use map designation of a parcel or parcels of land, the required advertisements shall be no less than 2 columns by 10 inches in a standard size or tabloid newspaper and the headline in the advertisement shall be in a type no smaller than eighteen (18) point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper meeting the requirements of Florida law regarding legal and official advertisements. The advertisement shall appear in a newspaper that is published at least weekly. The advertisement shall be in the following form:

NOTICE OF CHANGE OF LAND USE

The Board of County Commissioners of Clay County, Florida, proposes to change the use of land within the area shown in the map in this advertisement.

A public hearing on the proposal will be held on
(date and time) at (meeting place)

The advertisement shall also contain a geographic location map which clearly indicates the area covered by the proposal. The map shall include major street names as a means of identification of the area.

- (b) Notice to Affected Property Owners. In addition to the notice requirements established in Section 12-10(3)(a) above, the following requirements shall apply:
1. For all Future Land Use Map (FLUM) Amendment applications, whether an Administrative FLUM Amendment initiated by the Board or a FLUM Amendment initiated by an Applicant, notice of the public hearings before the Local Planning Agency and the Board shall be mailed to all owners of real property subject to the FLUM Amendment and to all owners of real property located within 350 feet of the property line of the real property subject to the FLUM Amendment, as determined by the Property Appraiser's records, and shall state the intent of the Local Planning Agency and the Board to consider a FLUM Amendment application, shall specify the time, date and place of the public hearings, the place within the County where such proposed ordinance may be inspected by the public, and shall also advise that interested parties may appear at the meetings and be heard with respect to the proposed ordinance. One notice containing the dates, times and place of all hearings before the Local Planning Agency and the Board as well as all other required information may be utilized and shall be mailed no later than 15 days prior to the date of the hearing before the Local Planning Agency.
 2. To enhance public awareness and participation in both of the Board public hearings, when plan amendments involving land use changes are to be considered, a sign or signs shall be posted on the property for which the proposed amendment is sought informing the public of the substance of the proposed action, indicating the date, time and place of the Board public hearing and informing the public where additional information may be obtained. Said posting shall be accomplished at least twenty-one (21) calendar days prior to each of the Board public hearings.
 3. Prior to official action by the Board to amend the Plan, notice of the proposed change shall be mailed to the applicable CAC Chairpersons and Vice Chairpersons and other community groups that have registered an interest with the LPA staff. The mailing shall include the date, time and place of the public hearings; a brief description of the purpose of the public hearing and the name, phone number and address of the individual who can best discuss the items to be considered. Written comments shall be encouraged and response forms provided. The mailing list shall include civic groups, business organizations, realtor and builder organizations as well as interested persons requesting inclusion.

(4) **Transmittal of Adopted Copy to Review Agencies.**

All adopted amendments, along with the supporting data and analysis, shall be transmitted within 10 days after the adoption hearing to the state land planning agency and any other agency or local government that provided timely comments. Transmittal of adopted small scale amendments to the state land planning agency and the regional planning council is recommended for record keeping purposes only.

(5) **Response to Notice of Intent.** The Board shall respond to the State Planning Agency's Notice of Intent as prescribed in Chapter 163.3184, F.S.

(6) **Fee Schedule for Comprehensive Plan Amendments.**

(a) **Filing Fees for Application to Amend the Plan.**

1. Fees shall be as provided in the Clay County Development Services Fee Schedule approved by BCC resolution as it may be amended from time to time.
2. Fees shall be due in full upon application for plan amendments. All fees assessed under the authority of this ordinance shall be collected by the Planning and Zoning Division for deposit in the Clay County Board of County Commissioners (CCBOCC).
3. Fees collected for plan amendment applications shall be non-refundable upon receipt unless approved pursuant to the BCC resolution on Clay County Development Services Fee Schedule.
4. In addition to the foregoing fees, all hearing and notice publications costs shall be paid by the requesting party. Notice and publication costs will be billed directly to the requesting party by the newspaper and must be paid prior to the applicable public hearing. If the advertisement includes any administrative amendment(s) being undertaken by the County as well as the changes proposed by the requesting party, the publication costs will be borne by the County. If the cost of such advertisement is greater than that necessitated by the administrative amendment(s) alone, the cost shall be paid by the requesting party, or if the advertisement includes two or more privately initiated plan amendments, the publication costs will be divided proportionally between the requesting parties.

- (b) **Additional Review Fees.** The County may retain or employ consultant who are knowledgeable in transportation and environmental analyses to assist the County in the review of the amendment application and in making recommendations to the Board on the proposed amendment prior to transmittal. The requesting party shall pay the reasonable cost for such consulting services. To secure payment, the applicant shall deposit with the County in the form of cash or surety bond an amount equal to the estimated cost for such consulting services. In the event the amount deposited is insufficient to cover the cost of consulting services, the requesting party shall be notified and shall within ten (10) working days of written notification from the County, deposit

additional funds estimated to be sufficient to cover the consulting fees to be incurred. Failure to deposit the funds indicated within ten (10) working days shall cause the suspension of staff review. In all cases, any outstanding balance shall be paid in full prior to any action by the Board. Funds deposited in excess of the final cost of consulting services shall be refunded to the requesting party within ten (10) days of the Board transmittal hearing. If applicable, the staff response to the reviewing agency's comments that relate to a requesting party's amendment shall be subject to the fee for consulting services outlined above.

- (c) Sign Cost. If signs are required to be posted, payment shall be due upon receipt of the signs. The cost shall be as provided in the Planning and Zoning Division. The requesting party shall be responsible for posting and maintaining signs at the location(s) identified by the Planning and Zoning Division.
- (d) Hardship Exemption. The Board of County Commissioners may reduce or eliminate all or a portion of the fees identified above for hardship. Prior to the submittal to the LPA staff of an application to amend the Plan for which the requesting party is seeking a hardship exemption, the requesting party shall apply for the exemption with the LPA staff. The exemption application must be received thirty (30) days prior to the LPA public hearings identified in Section 12-10(2)(h). The LPA staff shall schedule a public hearing for the request of hardship exemption at a time certain before the Board within thirty (30) days of receipt of the request. The requesting party shall appear and present the request. All fees not waived shall be due as for all like applications to amend the Plan.

Sec. 12-12. APPEALS FROM ADMINISTRATIVE DECISIONS

An appeal from an administrative decision and/or order shall be based on separate written reports prepared by each party or their agents, in the appeal. The reports shall succinctly describe each party's position regarding the issue before the Board. Each party's report shall be mailed to the Board of Adjustment and the party requesting the appeal at least ten days prior to the meeting at which the appeal will be discussed. Each party to the appeal will be afforded ample opportunity to debate their position in the appeal. The Chairman may, at his discretion, limit or eliminate discussion from persons other than the parties to the appeal and members of the Board of Adjustment.

- (1) **Review of Administrative Orders** – In exercising its power of Review of Administrative Orders, the Board of Adjustment may, upon appeal and in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination made by an administrative official in the enforcement of any regulation within this code. An affirmative vote of four of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of an administrative official or to decide in favor of an applicant on a matter upon which the Board has the authority to act.
- (2) **Appeals from decision of Administrative Official** – An appeal to the Board of Adjustment may be taken by any aggrieved person, Board, or any other department or agency of the county affected by any decision of an administrative official under any land development regulation enacted pursuant to this act. Such appeal shall be taken within thirty days after rendition of the